



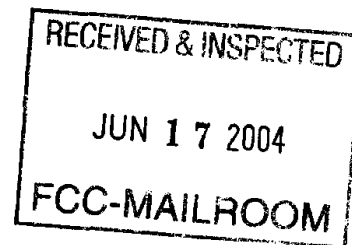
Public Service Commission

Richard E. Hitt, General Counsel

201 Brooks Street, P.O. Box 812
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June 10, 2004



Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, D.C. 20554

Re: Petition of WorldCom, Inc.
File No. CGB-94-129

Dear Ms. Dortch:

Enclosed for filing in the above-referenced proceeding is the *Response of the Public Service Commission of West Virginia to Petition of WorldCom, Inc. and a Motion to Hold Proceeding in Abeyance*

Copies of these documents have been sent to the persons named on the service list in this proceeding.

Very truly yours,

Richard E. Hitt, General Counsel
WV Bar No. 1743
Chris Howard, Staff Attorney
WV Bar No. 8688
Public Service Commission of West Virginia
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REH/CLH/cbd

Enclosures

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of WorldCom, Inc.)	File No. CGB-94-129
)	
Petition for Declaratory Ruling that West)	
Virginia's Definition of Customer of Record)	
is inconsistent with the FCC's rules)	

**RESPONSE OF WEST VIRGINIA PUBLIC
SERVICE COMMISSION TO PETITION OF
WORLDCOM INC.**

WHEREFORE, comes the Public Service Commission of West Virginia (hereinafter referred to as the WV Commission) and respectfully requests that the Federal Communications Commission (hereinafter referred to as FCC) not issue a decision on this matter at the present time until the matter of WV Commission Case No. 04-0555-T-PC is fully litigated and resolved by the WV Commission. The WV Commission notes that in conjunction with this response, the WV Commission is simultaneously filing a Motion to Hold Proceeding in Abeyance, in order to postpone any decision by the FCC until the WV Commission has examined this issue and made a determination in WV Commission Case No. 04-0555-T-PC.

In support of this contention, the WV Commission notes that WV Commission Case No. 04-0555-T-PC, titled AT & T Communications of West Virginia, Inc., involves this same issue before the WV Commission. AT & T Communications of West Virginia, Inc.

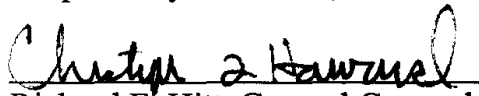
(hereinafter referred to as AT & T) seeks a declaratory ruling from the WV Commission to enhance a consumers ability to obtain telephone services in a commercially, reasonable, efficient and convenient manner. The Petition filed by AT & T before the WV Commission, specifically references 47 CFR 64.1100(h) denoting the FCC's definition of a "subscriber." AT & T seeks to have the word "subscriber" as defined in WV Code §24-2E-1 and Rule 2.8 of the Commission's *Rules and Regulations for the Government of Telephone Utilities*, should also include individuals with "apparent authority."

In comparison, the present matter seeks preemption of the above mentioned WV rules and statutes in lieu of 47 CFR 64.1100(h), as WorldCom asserts that the application of the West Virginia definition of "subscriber," has negative effects on interstate transactions.

Thus, both causes of actions seek virtually the same objective, that being a change in the WV definition of "customer," currently applied as the individual(s) or entity, whose name is on the account or anyone legally authorized to represent such individuals or entity. Therefore, in the interest of judicial economy and the orderly resolution of matters, the WV Commission asserts that the best course of action in the present matter is for the FCC not to exercise its ability to preempt the WV rule, as seen in Section 253 of the Telecommunications Act of 1934, but rather to grant the WV Commission's Motion, to wait the resolution of WV Commission Case No. 04-0555-T-PC. This would allow the WV Commission to review the rule defining "customer," and to make a determination, of whether it is too restrictive in its application.

Therefore, the WV Commission requests that the FCC grant the WV Commission's Motion to Hold Proceeding in Abeyance, and to allow the WV Commission to review its rule, as challenged under WV Commission Case No. 04-0555-T-PC, to assess whether or not it is too restrictive in nature, and to hold this matter in abeyance until the resolution of this matter before the WV Commission.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard E. Hitt", is written over a horizontal line.

Richard E. Hitt, General Counsel

WV Bar No. 1743

Chris Howard, WV Bar No. 8688

Public Service Commission of West Virginia

201 Brooks Street

Charleston, WV 25323

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of WorldCom, Inc.)	File No. CGB-94-129
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Petition for Declaratory Ruling that West)	
Virginia's Definition of Customer of Record)	
is inconsistent with the FCC's rules)	

MOTION TO HOLD PROCEEDING IN ABEYANCE

Comes now the intervenor, the Public Service Commission of West Virginia (hereinafter referred to as the WV Commission), by counsel, and requests that the Federal Communications Commission (hereinafter referred to as the FCC) in accordance with its authority under 47 CFR 1.727 hold this proceeding in abeyance.

The WV Commission states that this issue is currently pending before the WV Commission in the matter of AT & T Communications of West Virginia, Inc. Commission Case No. 04-0555-T-P, in which AT & T is seeking a petition from the WV Commission seeking a declaratory ruling to enhance consumers ability to obtain telephone services in a commercially reasonable, efficient and convenient manner. In regards to this action, the WV Commission notes the following:

1. In WV Commission Case No. 04-0555-T-PC, AT & T seeks a declaratory ruling from the WV Commission to enhance consumers ability to obtain telephone services in a commercially reasonable, efficient and convenient manner. Specifically, in its Petition

before the WV Commission, AT & T references the definition of “subscriber” as promulgated by the FCC, specifically, as contained in 47 CFR 64.1100(h). AT & T indicates that the overwhelming majority of states allow other individuals to make changes to accounts as long as they have the authority to do so. Thus, AT & T requests the WV Commission to enter an Order to declare that the word “subscriber” as defined in West Virginia Code 24-2E-1 and Rule 2.8 of the WV Commission’s *Rules and Regulations for the Government of Telephone Utilities*, also includes individuals with “apparent authority.”

2. In its Petition before the FCC, WorldCom, Inc. seeks preemption from the FCC in regards to West Virginia’s verification requirements, which it states are more stringent and are in conflict with the FCC requirements. WorldCom, Inc. references the FCC’s definition of “subscriber” as defined in 47 CFR 64.1100(h). WorldCom, Inc. indicates that its contention in this matter, is the restrictive nature of the West Virginia rule 15 CSR 6. 2.8 (b), which it asserts has an adverse effect on interstate PICs. WorldCom, Inc. articulates that it was the FCC’s goal in its establishment of the definition of “subscriber,” that would allow persons other than the name that appears on the invoice to make account changes, which has been evidenced by FCC rulings on this issue. WorldCom, Inc. concludes that the FCC should preempt West Virginia Rule 15 CSR 6. 2.8 (b) as inconsistent with FCC policy objectives.

ARGUMENT

The West Virginia Public Service Commission notes the similarities that exist

between the two filings, discussed *supra*, as both seek to undo what is seen as a strict interpretation of West Virginia Rule 15 CSR 6. 2.8(b), which restricts the ability to make changes on a customer account to that individual, whose name appears on the billing statement. While, both seek different routes to effectuate the desired change, the overall objective is the same, that being to allow other individuals besides the individual, whose name appears on the billing invoice to make changes to the customer account.

The matter of AT & T, Commission Case No. 04-0555-T-P, filed by AT & T, has been scheduled for hearing before an Administrative Law Judge on August 11, 2004. Upon the issuance of a Recommended Decision by the Administrative Law Judge, whose due date is November 10, 2004, parties will have the ability to file exceptions, due no later than November 30, 2004, followed by a possible hearing before the WV Commission.

The process in the AT & T proceeding will allow the WV Commission to consider the question of whether the Rule 15 CSR 6. 2.8 (b) is too restrictive, and whether or not other individuals other than that person, whose name appears on the billing invoice should be allowed to make changes to the customer account. Thus, the WV Commission and its Administrative Law Judge will be considering this argument and will make a determination over the validity of the arguments put forth by AT & T, which are similar in nature to those arguments put forth by WorldCom, Inc. in the instant matter.

In the interest of promoting judicial economy and an orderly resolution of matters, the FCC may grant this Motion to hold this matter in abeyance until the resolution of WV

Commission Case No. 04-0555-T-PC, based on its authority under the Telecommunications Act of 1934, as seen in 47 U.S.C. 154(i), 154(j) and 208. Thus, in accordance with the statutes, discussed *supra*, along with the FCC's rules, 47 CFR §0.91,0.291,0.111 and 0.311, may reasonably grant this Motion to hold this matter, in abeyance pending the resolution of WV Commission Case No. 04-0555-T-PC.

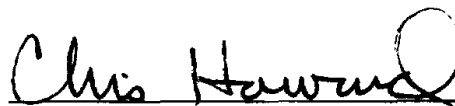
CONCLUSION

WHEREFORE, the Public Service Commission of West Virginia, given the similarities between the instant matter, and West Virginia Commission Case No. 04-0555-T-PC, respectfully requests that the FCC grant the Commission's Motion to Hold Proceeding in Abeyance, until the resolution of West Virginia Commission Case No. 04-0555-T-PC, a period that should last longer than a period of nine (9) months.

Respectfully submitted this 10th day of June , 2004.

THE PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA

By Counsel,



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CERTIFICATE OF SERVICE

I, Richard E. Hitt, Counsel for the Public Service Commission of West Virginia, do hereby certify that a copy of the foregoing "Motion to Hold Proceeding in Abeyance" and "Response of the Public Service Commission of West Virginia to Petition of WorldCom Inc" has been served upon the following parties of record by First Class, United States Mail, postage prepaid this 10th day of June, 2004.

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Nancy Stevenson, Esq.
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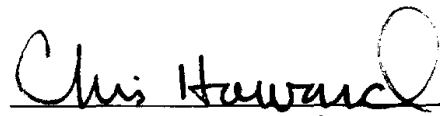
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